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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,651	12/06/2001	Harry R. Howard JR.	PC11839A	4848
23913	7590	04/06/2004	EXAMINER	
PFIZER INC 150 EAST 42ND STREET 5TH FLOOR - STOP 49 NEW YORK, NY 10017-5612			RAO, DEEPAK R	
		ART UNIT	PAPER NUMBER	
		1624		

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/010,651	HOWARD, HARRY R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Deepak R Rao	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2004.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 22,23,25-28 and 30 are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22, 23, 25-28, 30 are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This office action is in response to the amendment filed on January 21, 2004.

Claims 22-23, 25-28 and 30 are pending in this application.

***The following rejections are withdrawn:***

The rejections under 35 U.S.C. 112, second paragraph of the previous office action are withdrawn in view of the amendments.

***The following rejections are maintained:***

Claims 22-23, 25-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott et al., WO'380 and (Busch et al., WO'190 or Urban, US'068), for the reasons provided in the previous office action which are incorporated here by reference.

Applicant's arguments have been fully considered but they were not deemed to be persuasive. Applicant argues that 'there is no motivation or teaching in either of the references for combining the SRI antidepressant and an atypical antipsychotic for treating anxiety, depression, etc.'. This is not found to be persuasive because the references individually teach SRI antidepressant and atypical antipsychotic compound for the treatment of anxiety, see the respective teachings in each of the references as provided in the previous office action. "It is **prima facie** obvious to combine two compositions each of which is taught by the prior art to be useful **for the same purpose**, in order to form a third composition to be used for the very same purpose." See MPEP § 2144.06.

Applicant's argument that the 'reliance on *Kerkhoven* is misplaced' is fully considered. Contrary to applicant's arguments, the references individually teach each of the compounds that are useful as SRI antidepressant and antipsychotic to be useful for the same purpose, i.e., treatment of anxiety, which provides sufficient motivation to one of ordinary skill to combine the two in a single therapeutic method. For example, WO'380 teaches the use of the SRI antidepressant in combination with a second therapeutic agent useful in treating the disorder, see page 6, lines 24-34. Therefore, it is maintained that there is motivation to combine the compositions known for the treatment of the same disease.

***Conclusion***

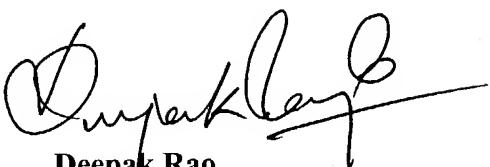
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (571) 272-0672. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah, can be reached on (571) 262-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting-SPE of 1624 at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



Deepak Rao  
Primary Examiner  
Art Unit 1624

April 2, 2004